



DEPARTMENT OF COMMERCE

International Trade Administration

[C-570-140]

Certain Mobile Access Equipment and Subassemblies Thereof from the People's Republic of China: Countervailing Duty Order and Amended Final Affirmative Countervailing Duty Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: Based on affirmative final determinations by the Department of Commerce (Commerce) and International Trade Commission (ITC), Commerce is issuing a countervailing duty (CVD) order on certain mobile access equipment and subassemblies thereof (mobile access equipment) from the People's Republic of China (China). In addition, Commerce is amending its final determination with respect to mobile access equipment from China to correct several ministerial errors.

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Theodore Pearson or Michael Romani, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-2631 or (202) 482-0198, respectively.

SUPPLEMENTARY INFORMATION:

Background

In accordance with section 705(a), 705(d), and 777(i) of the Tariff Act of 1930, as amended (the Act), on October 19, 2021, Commerce published its affirmative final determination that countervailable subsidies are being provided to producers and exporters of mobile access

equipment from China.¹ The Coalition of American Manufacturers of Mobile Access Equipment (the petitioner) and Lingong Jinan Heavy Machinery Co., Ltd. (LGMG) submitted timely allegations on the record that Commerce made several ministerial errors in the *Final Determination*.² Section 705(e) of the Act and 19 CFR 351.224(f) define ministerial errors as errors in addition, subtraction, or other arithmetic function, clerical errors resulting from inaccurate copying, duplication, or the like, and any other type of unintentional error which Commerce considers ministerial. We reviewed the allegations and determined that we made ministerial errors in the *Final Determination*. See “Amendment to the Final Determination” section below for further discussion.

On December 3, 2021, pursuant to sections 705(d) of the Act, the ITC notified Commerce of its final affirmative determination that an industry in the United States is threatened with material injury by reason of subsidized imports of mobile access equipment from China, within the meaning of sections 705(b)(1)(A)(i).³

Scope of the Order

The products covered by this order are mobile access equipment from China. For a full description of the scope of this order, see Appendix I.

Amendment to the *Final Determination*

On October 20, 2021, the petitioner and LGMG submitted timely ministerial error allegations regarding the *Final Determination*.⁴ Commerce reviewed the record, and on November 8, 2021, agreed that several errors alleged by the petitioner constituted ministerial errors within the meaning of section 705(e) of the Act and 19 CFR 351.224(f).⁵ Specifically,

¹ See *Certain Mobile Access Equipment and Subassemblies Thereof from the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 86 FR 57809 (October 19, 2021) (*Final Determination*).

² See Petitioner’s Letter, “Certain Mobile Access Equipment and Subassemblies Thereof from the People’s Republic of China: Ministerial Error Allegations,” dated October 20, 2021 (Petitioner Ministerial Error Allegations); see also LGMG’s Letter, “Certain Mobile Access Equipment and Subassemblies Thereof from China; CVD Investigation; LGMG Ministerial Error Comments,” dated October 20, 2021 (collectively, LGMG Ministerial Error Allegations).

³ See ITC’s Letter, “Notification of ITC Final Determination,” dated December 3, 2021 (ITC Notification Letter).

⁴ See Petitioner Ministerial Error Allegations; see also LGMG Ministerial Error Allegations.

⁵ See Memorandum, “Countervailing Duty Investigation Certain Mobile Access Equipment and Subassemblies Thereof from the People’s Republic of China: Ministerial Error Allegations in the Final Determination,” dated November 8, 2021 (Ministerial Error Memorandum).

Commerce determined that it had: miscalculated the benchmark for ocean freight used in calculating the subsidy rates for certain the provision of inputs for less-than-adequate-remuneration (LTAR) programs; miscalculated the benchmark for inland freight used for certain of LGMG's of inputs for LTAR programs; and failed to apply the "0.5 percent test" for determining whether to allocate or expense one of LGMG's subsidy programs.⁶ Pursuant to 19 CFR 351.224(e), Commerce is amending the *Final Determination* to reflect the corrections of the ministerial errors described in the Ministerial Error Memorandum.

Based on these corrections, the subsidy rate for LGMG changed from 18.34 percent to 18.58 percent and the subsidy rate for Zhejiang Dingli Machinery Co., Ltd. (Dingli) changed from 11.95 percent to 11.97 percent. Because the all-others rate is based upon a weighted average of the subsidy rates calculated for Dingli and LGMG, the all-others rate changed from 12.93 percent to 12.98 percent. In addition, the adverse facts available subsidy rate for non-responsive companies, which is partially calculated using subsidy rates determined for Dingli and LGMG, changed from 448.70 percent to 448.80 percent.

CVD Order

As stated above, on December 3, 2021, in accordance with section 705(d) of the Act, the ITC notified Commerce of its final determination that an industry in the United States producing mobile access equipment is threatened with material injury, within the meaning of section 705(b)(1)(A)(ii) of the Act, by reason of subsidized imports of mobile access equipment from China.⁷ Therefore, in accordance with section 705(c)(2) of the Act, we are publishing this CVD order.

According to section 706(b)(2) of the Act, countervailing duties shall be assessed on subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the ITC's notice of final determination if that determination is based upon the

⁶ *Id.* Commerce also determined that it erred in selecting the discount rate used for allocating two other subsidies for LGMG in the *Final Determination*.

⁷ See ITC Notification Letter.

threat of material injury. Section 706(b)(1) of the Act states, “{i}f the Commission, in its final determination under section 705(b), finds material injury or threat of material injury which, but for the suspension of liquidation under section 703(d)(2), would have led to a finding of material injury, then entries of the merchandise subject to the countervailing duty order, the liquidation of which has been suspended under section 703(d)(2), shall be subject to the imposition of countervailing duties under section 701(a).” In addition, section 706(b)(2) of the Act requires U.S. Customs and Border Protection (CBP) to refund any cash deposits of estimated countervailing duties posted before the date of publication of the ITC’s final affirmative determination, if the ITC’s final determination is based on threat other than the threat described in section 706(b)(1) of the Act. Because the ITC’s final determination in this case is based on the threat of material injury and is not accompanied by a finding that injury would have resulted but for the imposition of suspension of liquidation of entries since the publication of Commerce’s *Preliminary Determination* in the *Federal Register*,⁸ section 706(b)(2) of the Act applies.

Suspension of Liquidation

As a result of the ITC’s determination and in accordance with section 706(a)(1) of the Act, Commerce will direct CBP to assess, upon further instruction by Commerce, countervailing duties equal to the amount of the net countervailable subsidy for all relevant entries of mobile access equipment from China. In accordance with section 706 of the Act, Commerce will direct CBP to continue suspension of liquidation, effective on the date of publication of the ITC’s notice of final determination in the *Federal Register*, and to require a cash deposit for each entry of subject merchandise in an amount equal to the net countervailable subsidy rates listed below.

⁸ See *Certain Mobile Access Equipment and Subassemblies Thereof from the People’s Republic of China: Preliminary Affirmative Countervailing Duty Determination*, 86 FR 41013 (July 30, 2021) (*Preliminary Determination*).

The all-others rate applies to all producers and exporters of subject merchandise not specifically listed.

Company	Subsidy Rate (percent)
Lingong Group Jinan Heavy Machinery Co., Ltd. ⁹	18.58
Zhejiang Dingli Machinery Co., Ltd. ¹⁰	11.97
Jinan Zhongtian International Trading ¹¹	448.80
Zhongshan Shiliwang Machinery Co., LTD ¹²	448.80
Yantai Empire Industry and Trade ¹³	448.80
Shandong Lede Machinery ¹⁴	448.80
Shandong Huifeng Auto Fittings ¹⁵	448.80
Jinan Zhongtang Mechanical Equipment ¹⁶	448.80
All Others	12.98

Termination of the Suspension of Liquidation

Commerce will instruct CBP to terminate the suspension of liquidation for entries of mobile access equipment from China, entered or withdrawn from warehouse, for consumption prior to the publication of the ITC’s notice of final determination. Commerce will also instruct CBP to refund any cash deposits made with respect to entries of mobile access equipment entered, or withdrawn from warehouse, for consumption on or after July 30, 2021 (*i.e.*, the date of publication of the *Preliminary Determination*), but before the date of publication of the ITC’s notice of final determination. This notice constitutes the countervailing duty order with respect to mobile access equipment from China, pursuant to section 706(a) of the Act.

⁹ Cross-owned affiliate is Linyi Lingong Machinery Group Co., Ltd.

¹⁰ Cross-owned affiliates are Zhejiang Green Power Machinery Co., Ltd. and Shengda Fenghe Automotive Equipment Co., Ltd.

¹¹ See Preliminary Decision Memorandum at section “Application of AFA: Non-Responsive Companies.”

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

Establishment of the Annual Inquiry Service List

On September 20, 2021, Commerce published the final rule titled “*Regulations to Improve Administration and Enforcement of Antidumping and Countervailing Duty Laws*” in the *Federal Register*.¹⁷ On September 27, 2021, Commerce also published the notice entitled “*Scope Ruling Application; Annual Inquiry Service List; and Informational Sessions*” in the *Federal Register*.¹⁸ The *Final Rule* and *Procedural Guidance* provide that Commerce will maintain an annual inquiry service list for each order or suspended investigation, and any interested party submitting a scope ruling application or request for circumvention inquiry shall serve a copy of the application or request on the persons on the annual inquiry service list for that order, as well as any companion order covering the same merchandise from the same country of origin.¹⁹

In accordance with the *Procedural Guidance*, for orders published in the *Federal Register* after November 4, 2021, Commerce will create an annual inquiry service list segment in Commerce’s online e-filing and document management system, Antidumping and Countervailing Duty Electronic Service System (ACCESS), available at <https://access.trade.gov>, within five business days of publication of the order. Each annual inquiry service list will be saved in ACCESS, under each case number, and under a specific segment type called “AISL-Annual Inquiry Service List.”²⁰

Interested parties who wish to be added to the annual inquiry service list for an order must submit an entry of appearance to the annual inquiry service list segment for the order in ACCESS within 30 days after the date of publication of the order. For ease of administration,

¹⁷ See *Regulations to Improve Administration and Enforcement of Antidumping and Countervailing Duty Laws*, 86 FR 52300 (September 20, 2021) (*Final Rule*).

¹⁸ See *Scope Ruling Application; Annual Inquiry Service List; and Informational Sessions*, 86 FR 53205 (September 27, 2021) (*Procedural Guidance*).

¹⁹ *Id.*

²⁰ This segment will be combined with the ACCESS Segment Specific Information (SSI) field which will display the month in which the notice of the order or suspended investigation was published in the *Federal Register*, also known as the anniversary month. For example, for an order under case number A-000-000 that was published in the *Federal Register* in January, the relevant segment and SSI combination will appear in ACCESS as “AISL-January Anniversary.” Note that there will be only one annual inquiry service list segment per case number, and the anniversary month will be pre-populated in ACCESS.

Commerce requests that law firms with more than one attorney representing interested parties in an order designate a lead attorney to be included on the annual inquiry service list. Commerce will finalize the annual inquiry service list within five business days thereafter. As mentioned in the *Procedural Guidance*, the new annual inquiry service list will be in place until the following year, when the *Opportunity Notice* for the anniversary month of the order is published.

Commerce may update an annual inquiry service list at any time as needed based on interested parties' amendments to their entries of appearance to remove or otherwise modify their list of members and representatives, or to update contact information. Any changes or announcements pertaining to these procedures will be posted to the ACCESS website at <https://access.trade.gov>.

Special Instructions for Petitioners and Foreign Governments

In the *Final Rule*, Commerce stated that, “after an initial request and placement on the annual inquiry service list, both petitioners and foreign governments will automatically be placed on the annual inquiry service list in the years that follow.”²¹ Accordingly, as stated above, the petitioner and the Government of China should submit their initial entry of appearance after publication of this notice in order to appear in the first annual inquiry service list. Pursuant to 19 CFR 351.225(n)(3), the petitioner and the Government of China will not need to resubmit their entries of appearance each year to continue to be included on the annual inquiry service list. However, the petitioner and the Government of China are responsible for making amendments to their entries of appearance during the annual update to the annual inquiry service list in accordance with the procedures described above.

Notification to Interested Parties

This notice constitutes the CVD order with respect to mobile access equipment from China pursuant to section 706(a) of the Act. Interested parties can find a list of CVD orders currently in effect at <http://enforcement.trade.gov/stats/iastats1.html>.

²¹ See *Final Rule*, 86 FR at 52335.

This amended final determination and order is issued and published in accordance with sections 705(d) and 706(a) of the Act and 19 CFR 351.211(b) and 351.224(e).

Dated: December 7, 2021.

Ryan Majerus,
Deputy Assistant Secretary
for Policy and Negotiations,
Performing the Non-Exclusive Functions and Duties of the
Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Order

The merchandise covered by this order consists of certain mobile access equipment, which consists primarily of boom lifts, scissor lifts, and material telehandlers, and subassemblies thereof. Mobile access equipment combines a mobile (self-propelled or towed) chassis, with a lifting device (*e.g.*, scissor arms, boom assemblies) for mechanically lifting persons, tools and/or materials capable of reaching a working height of ten feet or more, and a coupler that provides an attachment point for the lifting device, in addition to other components. The scope of this order covers mobile access equipment and subassemblies thereof whether finished or unfinished, whether assembled or unassembled, and whether the equipment contains any additional features that provide for functions beyond the primary lifting function.

Subject merchandise includes, but is not limited to, the following subassemblies:

- scissor arm assemblies, or scissor arm sections, for connection to chassis and platform assemblies. These assemblies include: (1) pin assemblies that connect sections to form scissor arm assemblies, and (2) actuators that power the arm assemblies to extend and retract. These assemblies may or may not also include blocks that allow sliding of end sections in relation to frame and platform, hydraulic hoses, electrical cables, and/or other components;
- boom assemblies, or boom sections, for connection to the boom turntable, or to the chassis assembly, or to a platform assembly or to a lifting device. Boom assemblies include telescoping sections where the smallest section (or tube) can be nested in the next larger section (or tube) and can slide out for extension and/or articulated sections joined by pins. These assemblies may or may not include pins, hydraulic cylinders, hydraulic hoses, electrical cables, and/or other components;
- chassis assemblies, for connection to scissor arm assemblies, or to boom assemblies, or to boom turntable assemblies. Chassis assemblies include: (1) chassis frames, and/or (2) frame sections. Chassis assemblies may or may not include axles, wheel end components, steering cylinders, engine assembly, transmission, drive shafts, tires and wheels, crawler tracks and wheels, fuel tank, hydraulic oil tanks, battery assemblies, and/or other components;
- boom turntable assemblies, for connection to chassis assemblies, or to boom assemblies. Boom turntable assemblies include turntable frames. Boom turntable assemblies may or may not include engine assembly, slewing rings, fuel tank, hydraulic oil tank, battery assemblies, counterweights, hoods (enclosures), and/or other components.

Importation of any of these subassemblies, whether assembled or unassembled, constitutes unfinished mobile access equipment for purposes of this order.

Processing of finished and unfinished mobile access equipment and subassemblies such as trimming, cutting, grinding, notching, punching, slitting, drilling, welding, joining, bolting, bending, beveling, riveting, minor fabrication, galvanizing, painting, coating, finishing, assembly, or any other processing either in the country of manufacture of the in-scope product or in a third country does not remove the product from the scope. Inclusion of other components not identified as comprising the finished or unfinished mobile access equipment does not remove the product from the scope.

The scope excludes forklifts, vertical mast lifts, mobile self-propelled cranes and motor vehicles that incorporate a scissor arm assembly or boom assembly. Forklifts are material handling vehicles with a working attachment, usually a fork, lifted along a vertical guide rail with the operator seated or standing on the chassis behind the vertical mast. Vertical mast lifts are person and material lifting vehicles with a working attachment, usually a platform, lifted along a vertical guide rail with an operator standing on the platform. Mobile self-propelled cranes are material handling vehicles with a boom attachment for lifting loads of tools or materials that are suspended on ropes, cables, and/or chains, and which contain winches mounted on or near the base of the boom with ropes, cables, and/or chains managed along the boom structure. The scope also excludes motor vehicles (defined as a vehicle driven or drawn by mechanical power and manufactured primarily for use on public streets, roads, and highways, but does not include a vehicle operated only on a rail line pursuant to 49 U.S.C. § 30102(a)(7)) that incorporate a scissor arm assembly or boom assembly. The scope further excludes vehicles driven or drawn by mechanical power operated only on a rail line that incorporate a scissor arm assembly or boom assembly. The scope also excludes: (1) rail line vehicles, defined as vehicles with hi-rail gear or track wheels, and a fixed (non-telescopic) main boom, which perform operations on rail lines, such as laying rails, setting ties, or other rail maintenance jobs; and (2) certain rail line vehicle subassemblies, defined as chassis subassemblies and boom turntable subassemblies for rail line vehicles with a fixed (non-telescopic) main boom.

Certain mobile access equipment subject to this order is typically classifiable under subheadings 8427.10.8020, 8427.10.8030, 8427.10.8070, 8427.10.8095, 8427.20.8020, 8427.20.8090, 8427.90.0020 and 8427.90.0090 of the Harmonized Tariff Schedule of the United States (HTSUS). Parts of certain mobile access equipment are typically classifiable under subheading 8431.20.0000 of the HTSUS. While the HTSUS subheadings are provided for convenience and customs purposes only, the written description of the merchandise under order is dispositive. [FR Doc. 2021-26890 Filed: 12/9/2021 8:45 am; Publication Date: 12/10/2021]